

Applicants: Gordon et al.

Atty. Docket No. SEA-034(4)

(formerly 07442-009001)

Page 11

### **REMARKS**

On October 3, 2005, Applicants filed an Amendment concurrently with a Request for Continued Examination in response to a Final Office Action mailed on August 4, 2005. In the Amendment, claims 1-127 were cancelled and new claims 128 through 173 were added.

Subsequently, Applicants received a Notice of Non-Compliant Amendment from the United States Patent and Trademark Office mailed on December 29, 2005. Applicants submit this paper in response to the Notice and respectfully request entry of the foregoing amendments to the claims that were previously submitted on October 3, 2005 and the following revised Remarks, which identifies with particularity (i) the reasons for the new claims being patentable over the prior art and (ii) support in the specification for these new claims.

Claims 128-173 are now pending in this application. Claims 1-127 have been canceled and new claims 128-173 have been added. No new matter is introduced. Reconsideration is respectfully requested.

#### **Claim Rejections – 35 U.S.C. 102**

The Examiner rejected claims 73-75, 77, 79-82, 85-88, 90-92, 100-102, 105-108, 110-112, 114, 119 and 120 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 5,991,306 to Burns et al. Claims 1-127 have been canceled. This rejection is now moot.

#### **Claim Rejections – 35 U.S.C. 103**

The Examiner rejected claims 76, 78, 83, 84, 89, 93-99, 103, 104, 109, 113, 115-118 and 121-127 under 35 U.S.C. §103(a) as being unpatentable over Burns et al. Claims 1-127 have been canceled. Claims 1-127 have been canceled. This rejection is now moot.

#### **New Claims 128-173**

New claims 128-173 have been added, of which claims 128, 151 and 173 are independent. With respect to claim 128, a system for managing distribution of viewable data

objects is provided featuring a plurality of servers for storing viewable data objects, including local servers and storage servers. Each local server is in communication with at least one of a plurality of viewer receivers. Each storage server is in communication with selected local servers. A content manager, which is in communication with each of the servers, is configured to cause selected viewable data objects to be provided to selected servers at least in part on the basis of expected demand for the viewable data objects by the selected servers and at least one of available bandwidth associated with the selected servers and available storage capacity associated with the selected servers. Method claim 151 and system claim 173 also recite similar features. Support for claim 128, 151 and 173 can be found in FIGS. 3, 5B and 5C and in the surrounding discussion on page 3, lines 15-28; page 5, lines 11-20; page 9, line 15 to page 12, line 3; page 14, line 23 to page 15, line 19; and page 16, line 10 to page 17, line 26.

With respect to claims 128, 151 and 173, Burns et al fails to teach or suggest at least the step of causing, or a content manager configured to cause, one or more selected viewable data objects to be provided to selected server at least in part on the basis of the expected demand and at least one of the available bandwidth and the available storage capacity associated with the selected servers. At best, Burns et al discusses a network system in which local service providers schedule delivery of frequently requested content from a content provider prior to a peak time when the subscribers are likely to request the content. The content is downloaded from the content provider during the off-peak hours and cached at the local service providers for serving to the subscribers during the ensuing peak time. (See Abstract; Fig. 5 and surrounding discussion at col. 9, line 1 through col. 10, line 10) Burns et al does not teach or suggest causing selected viewable data objects to be provided to selected servers on the basis available bandwidth and/or available storage capacity associated with the selected servers in addition to the expected demand for the viewable data objects by the selected servers, as now recited in claims 128, 151 and 173.

For at least these reasons, it is believed claims 128, 151 and 173 are not taught or suggested in view of the prior art of record.

U.S.S.N. 09/293,011, Filed April 16, 1999

Applicants: Gordon et al.

Atty. Docket No. SEA-034(4)

(formerly 07442-009001)

Page 13

Furthermore, by virtue of at least their dependency to claims 128 and 151 respectively and the additional features recited therein, it is believed that claims 129-150 and 152-172 are also patentable.

U.S.S.N. 09/293,011, Filed April 16, 1999

Applicants: Gordon et al.

Atty. Docket No. SEA-034(4)

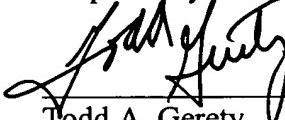
(formerly 07442-009001)

Page 14

**CONCLUSION**

In view of the above amendments and remarks, it is believed that claims 128-173 are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,



---

Todd A. Gerety  
PTO Reg. 51,729  
Attorney for the Applicant  
Proskauer Rose LLP  
One International Place  
Boston, MA 02110

Date: January 30, 2006

Tel. (617) 526-9655

Fax (617) 526-9899